

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

IN THE MATTER OF A PILOT PROJECT )	
IN THE JUSTICE COURTS RE: CUSTODY )	ADMINISTRATIVE
ORDER	
AND VISITATION )	NO. 93-072

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A.R.S. §12-211 and A.R.S. §12-212 permit the appointment of non-lawyer court commissioners.

Justices of the Peace, in handling domestic violence matters, are daily faced with entering orders prohibiting contact between parents. Because of their limited jurisdiction status, the Justices of the Peace are precluded from including in those orders even short-term orders concerning child visitation with the children by the parents.

It is generally in the best interest of families that even parents who are in dispute have reasonable visitation with their children so long as the children are not exposed to any dangers associated with domestic violence situations. Allowing visitation with children under reasonable conditions can also be a factor in reducing the tensions which can be associated with domestic violence situations.

It does not appear that the domestic violence statutes presently allow limited jurisdiction judges to enter visitation orders. A request for a statutory change could be appropriate. To assist in determining what the change might include, and some of the problems with a change, a pilot project of allowing short-term visitation orders to be entered in five justice courts under restricted conditions seems reasonable.

Accordingly,

**IT IS ORDERED** appointing Judge Jacqueline McVay, Justice of the Peace of Northeast Phoenix Precinct, as a Court Commissioner pursuant to A.R.S. §12-211 until January 9, 1995, but at no increase in compensation.

**IT IS ORDERED** appointing Judge John Barclay, Justice of the Peace of Northwest Phoenix Precinct, as a Court Commissioner pursuant to A.R.S. §12-211 until January 9, 1995, but at no increase in compensation.

**IT IS ORDERED** appointing Judge Rebecca MacBeth, Justice of the Peace of East Phoenix #1 Precinct, as a Court Commissioner pursuant to A.R.S. §12-211 until January 9, 1995, but at no increase in compensation.

**IN IS ORDERED** appointing Wayne Johnson, Justice of the Peace of East Mesa Precinct, as a Court Commissioner pursuant to A.R.S. §12-211 until January 9, 1995, but at no increase in compensation.

**IT IS ORDERED** appointing Lex Anderson, Justice of the Peace of Peoria Precinct, as a Court Commissioner pursuant to A.R.S. §12-211 until January 9, 1995, but at no increase in compensation.

**IT IS ORDERED** that Judge McVay, Judge Barclay, Judge MacBeth, Judge Johnson, and Judge Anderson shall complete training approved by the Presiding Judge of the county before holding any proceedings pursuant to this administrative order. (It is acknowledged that these five Justices of the Peace have satisfactorily completed the required approved training.)

**IT IS ORDERED** that Judge McVay, Judge Barclay, Judge MacBeth, Judge Johnson and Judge Anderson shall act as a Court Commissioner in processing domestic violence petitions for orders of protection and in so doing may enter orders relative to custody and visitation of any children involved, **PROVIDED, HOWEVER,** that:

1. any such order shall be specifically limited by its terms to be effective for no more than 90 days, renewable one time for an additional 90 days; and
2. in entering such temporary orders, the judges shall consider the best interest of the child or children; and
3. evidence of domestic violence shall be considered as being contrary to the best interest of the child; and
4. if there is a finding that domestic violence occurred, the judge shall enter orders which require arrangements for visitation that best protect the child and the abused spouse from further harm; and
5. the person who has committed an act of domestic violence has the burden of proving that visitation will not endanger the child or significantly impair the child's emotional development; and
6. if either party to the order of protection files a domestic relations action, the order of protection is to

be transferred by the Justice of the Peace to the Clerk of the court and consolidated into the domestic relations action in the Superior Court; and

7. no order shall be entered regarding custody or visitation if there is a pending domestic relations case where an order of custody or visitation has been previously entered.

**IT IS ORDERED** that the pilot project described herein shall begin on October 4, 1993.

**IT IS ORDERED** that Justice Court Services shall provide the presiding judge of the county with a written evaluation of the results of this pilot project from October 4, 1993 to July 1, 1994, not later than July 29, 1994, along with any proposed legislation.

**IT IS ORDERED** that all departments of the Court Institution shall cooperate with Justice Court Services in such evaluation and proposed legislation.

**IT IS ORDERED** that this pilot project shall cease as of January 9, 1995, and this administrative order shall be of no further force and effect after that date, unless this administrative order is extended before that date.

DONE on October 4, 1993.

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C. Kimball Rose, Presiding Judge

Original: Clerk of the Court

Copies: Richard Ortiz  
Judge Jacqueline McVay  
Judge John Barclay  
Judge Rebecca MacBeth  
Judge Wayne Johnson  
Judge Lex Anderson  
Judge Kenneth Fields  
Chief Justice Feldman  
Gordon Griller  
Kim V. Kelly  
Marcus Reinkensmeyer